

HEADQUARTERS PERSONNEL - NASHVILLE

COMMISSIONER'S OFFICE

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[ADMINISTRATIVE DIVISION NARRATIVE]

The **Administrative Division** administers the Department's budget and oversees fiscal services, human resources, training and development, and information systems.

The Department continues to work with both the Department of Personnel and the Department of Finance and Administration to develop and improve career path with salary progression for our examiners.

Training is another integral part of developing and maintaining a qualified examiner staff. To ensure value, the Department's training needs are annually assessed and budgeted. The majority of the structured training curriculum is acquired through external training sources such as Federal Deposit Insurance Corporation, the National Credit Union Administration, the Board of Governors of the Federal Reserve System, the Educational Foundation of the Conference of State Bank Supervisors, the National Association of the State Credit Union Supervisors, the Federal Financial Institutions Examination Council, the National Association of Consumer Credit Administrators, as well as other sources.



[LEGAL SECTION NARRATIVE]

The Legal Section provides legal advice and representation for the Department. The Department's lawyers advise the Commissioner and departmental personnel in all legal matters affecting the Department. They work with regulated entities and the general public in addressing legal issues. The Department's lawyers also work closely with the Governor's Office and the Tennessee General Assembly on legislative issues affecting financial institutions. The Legal Section assists in the coordination of enforcement initiatives with other federal and state regulators as well as with various law enforcement agencies.

In 2005, the Legal Section was heavily involved in the 2005 Legislative session by tracking bills, working closely with the Governor's Office, the General Assembly, and other groups sponsoring legislation which impacted the Department. This section provided assistance to operating divisions on issues involving title pledge lenders, mortgage loan originator registration, predatory lending, bank and trust company operations including interstate transactions, bank and credit union applications, money transmission, Bank Secrecy Act compliance, check cashing, deferred presentment, mortgage companies, and credit union fields of membership, as well as several other issues.

2005 LEGISLATIVE HIGHLIGHTS

PUBLIC CHAPTER 8

Repeals T.C.A. §§ 56-6-201 through 56-6-204

Effective Date: 3/21/05

Public Chapter 8 repeals T.C.A. §§ 56-6-201 through 204, known as the anti-affiliation statute. This law prohibited banks in a holding company structure from engaging in the sale of insurance. The Gramm-Leach-Bliley Act passed by Congress in 1999 preempted this state law. Therefore, the anti-affiliation provisions have not been effective against Tennessee banks for a number of years.

PUBLIC CHAPTER 16

Amends T.C.A. § 47-28-104

Effective Date: 3/29/05

Public Chapter 16 amends the provisions of T.C.A. § 47-28-104 to increase the maximum potential term of an open-end mortgage from 20 to 30 years.

PUBLIC CHAPTER 30

Amends Title 45, Chapter 2, Part 700 and T.C.A. § 45-2-106

Effective Date: 4/11/05

Public Chapter 30 adds a new section to the Banking Act (T.C.A. § 45-2-710) that provides that an action to enforce a claim on a deposit account or a certificate of deposit accrues upon the earlier of the following: (1) The date demand for payment is made, or (2) The latest of (a) due date established in bank's last notice of renewal; (b) date of last communication from bank acknowledging the bank's obligation; or (c) the last day of the taxable year that the owner reported interest income on the deposit.

Public Chapter 30 also amends T.C.A. § 45-2-106(b) to make T.C.A. § 45-2-710 applicable to credit unions, savings and loan associations and savings banks.



PUBLIC CHAPTER 161

Amends Title 47, Chapter 18, Part 1

Effective Date: 5/13/05

Public Chapter 161 amends T.C.A. Title 47, Chapter 18, Part 1 by adding a new section 126 to provide that no one accepting debit or credit cards for business transactions shall print or cause to be printed more than five digits of the card number or the expiration date on any receipt provided to the card holder at the point of sale or transaction.

However, Public Chapter 161 further provides that this new section only applies to receipts that are electronically printed, and not to transactions in which the sole means of recording is by handwriting or by an imprint or copy of the card. Currently, Public Chapter 161 applies only to cash registers or other machines that electronically print receipts for credit card or debit card transactions that were first put to use on or after January 1, 2005. Effective January 1, 2007, this law will also apply to any cash register or other machine that electronically prints receipts for credit or debit card transactions and was in use prior to January 1, 2005.

Any party violating Public Chapter 161 will be liable for both actual damages and treble damages under the Tennessee Consumer Protection Act.

PUBLIC CHAPTER 273

Amends T.C.A. Title 47, Adds Chapter 32

Effective Date: 9/1/05

Public Chapter 273 adds a new chapter 32 to Title 47 and enacts the Residential Closing Funds Distribution Act of 2005. Public Chapter 273 applies to loans made by mortgage lenders utilizing settlement agents that are secured by a deed of trust or mortgage on real property: (1) Containing not more than four residential dwelling units, regardless of the purposes of the dwellings; (2) Vacant lots zoned or designated for use as residential property; or (3) Agricultural land. Public Chapter 273 exempts from its coverage loans made by mortgage lenders secured by commercial or industrial real estate.

Specifically, Public Chapter 273 mandates that the mortgage lender, mortgage loan broker, mortgage loan servicer, and other "persons" shall, at or before loan closing, disburse the loan funds to the settlement agent in one of the following forms: 1) Cash, (2) Wired funds; (3) Checks issued by the State of Tennessee or a political subdivision of the state; (4) Cashier's check; (5) Teller's check or other official check, however designated, which is issued by a financial institution and drawn on a financial institution located within the same Federal Reserve District as the location of the settlement agent; (6) Checks issued by an instrumentality of the United States organized and existing under the Farm Credit Act of 1971; or, (7) Checks issued from the escrow or trust account of a real estate broker licensed pursuant to T.C.A. 62-13-101 et seq. and drawn on or payable through a financial institution within the same Federal Reserve check processing region as the location of the settlement agent in an amount not to exceed the earnest money paid by the purchaser and collected in such fiduciary account.

With respect to loans subject to the one day right of rescission under 15 U.S.C. § 1601, et seq. (Truth-in-Lending Act), Public Chapter 273 requires

that the mortgage lender, mortgage loan broker, mortgage loan servicer, or other person shall disburse the loan funds to the settlement agent not later than the first business day after the expiration of the applicable rescission period.

Public Chapter 273 provides that a party violating this act will be liable for actual damages and reasonable attorney's fees. In addition, any party in violation of this act shall pay for the other party or parties suffering a loss in an amount equal to \$1,000 or double the amount of interest payable on the mortgage loan for the first 60 days after the loan closing, whichever amount is greater.

PUBLIC CHAPTER 349

Amends T.C.A. § 47-29-102

Effective Date: 6/7/05

Public Chapter 349 amends T.C.A. § 47-29-102 by raising the handling charge that a payee may assess against the maker or drawer of a bad check from \$20.00 to \$30.00.

PUBLIC CHAPTER 432

Amends Title 9, Chapter 1

Effective Date: 1/1/06

Public Chapter 432 adds a new section to Title 9, Chapter 1 that expands the authorized investments, types of deposits and places for deposit of funds held by governmental entities.

Currently, all public deposits must be federally insured. The FDIC only insures deposits of up to \$100,000. Under existing law, if a governmental entity needed to deposit more than \$100,000, the bank accepting the deposit would either have to collateralize the deposit with bank securities or be a member of the collateral pool.

Public Chapter 432 gives banks a third option by giving them the authority to join in the Certificate of Deposit Account Registry (CDARS) for public funds. CDARS is basically a deposit placement service that allows a bank to receive and keep customer deposits in excess of \$100,000 and maintain FDIC insurance by placing the excess amounts in reciprocating financial institutions. Thus, a participating bank whose customer has a \$1 million dollar deposit would maintain the account relationship with the customer for the full amount, would have funds deposited in the bank for the full \$1 million from other reciprocating customers, and the bank's customer would be fully insured due to the placement of the funds in other FDIC insured institutions. The FDIC issued an opinion on July 29, 2003 confirming that FDIC insurance would be available to all deposits placed through the CDARS program if certain disclosure and recordkeeping requirements are met.

PUBLIC CHAPTER 440

Amends Title 45, Chapter 15

Effective Date: 11/1/05

Public Chapter 440 amends the Title Pledge Act (T.C.A. §§ 45-15-101 et seq.) by subjecting the title pledge industry to licensing and examination by this Department.

Public Chapter 440 adds to the Title Pledge Act provisions necessary for the Department to provide effective regulatory oversight. For example, it authorizes the Department to investigate license applications; grants the Department authority to assess civil money penalties, issue cease and desist orders and require refunds; and, authorizes the Department to suspend/revoke licenses for violations of the Act.

Public Chapter 440 adds the following consumer protections to the Title Pledge Act: requires borrowers to pay a 5% principal reduction starting with third renewal (current law allows these loans to be renewed indefinitely with no principal reduction); provides borrowers with a one day right of rescission; gives the commissioner full authority to investigate consumer complaints including ability to subpoena, etc.; and, a requirement that sales of repossessed pledged property be made in a “commercially reasonable” manner as defined by the Uniform Commercial Code, and return any surplus of the sale to the borrower.

Public Chapter 440, makes clear that title pledge lenders cannot do the following: add any accrued interest or fee to original principal during renewal; charge prepayment penalties; or, renew or consolidate a title pledge agreement with proceeds from another title pledge agreement.

PUBLIC CHAPTER 463

Amends T.C.A. § 45-13-102

Effective Date: 6/18/05

Public Chapter 463 amends T.C.A. § 45-13-102(12), the provision in the Residential Lending, Brokerage and Servicing Act, T.C.A. § 45-13-101 et seq. which defines the term “mortgage loan broker.” Presently, the term “mortgage loan broker” is defined in pertinent part, as a person who, for compensation, “solicits, processes, places, or negotiates or originates mortgage loans for others...” Public Chapter 463 removes the terms “process” and “processes” from the definition of mortgage loan broker.

PUBLIC CHAPTER 493

Effective Date: 6/22/05

Chapter 871 of the Public Acts of 2002 created a special joint study committee to perform a comprehensive analysis of predatory lending issues in Tennessee. The reporting deadline for the committee was extended by Chapter 316 of the Public Acts of 2003 and Chapter 746 of the Public Acts of 2004. In order to give the committee additional time to properly investigate predatory lending issues and make recommendations, Public Chapter 493 was passed to further extend the reporting deadline of this committee to May 1, 2006.





RULEMAKING

Amendment to Rule 0180-7-.08 – Rules of Practice:
Applications, Instructions, Forms, Reports of State Banks and
Schedule of Application Fees for State Banks, BIDCOs, Savings Banks
and Trust Companies
Effective Date: 9/28/05

This amendment changes certain fees applicable to various applications filed by banks, savings banks and trust companies.

**Amendment to Rule 0180-17-.10 – Rules Pertaining
to Mortgage Lending, Loan Servicing and Loan
Brokering**
Effective Date: 5/22/05

This amendment sets forth an initial registration fee of \$100.00 and an annual renewal fee of \$100.00 for the registration of mortgage loan originators. The requirement to register mortgage loan originators under the Residential Lending, Brokerage and Servicing Act became effective on January 1, 2005, pursuant to T.C.A. § 45-13-126.

**New Rule 0180-33 – Rules Pertaining to Title Pledge
Lenders**
Effective Date: 10/28/05

This new rule set forth an initial registration fee of \$700.00 and an annual renewal fee of \$700.00 for the licensing of Title Pledge Lenders pursuant to T.C.A. § 45-15-106.

Administration & Legal Division

2005 FISCAL NUMBERS AT A GLANCE

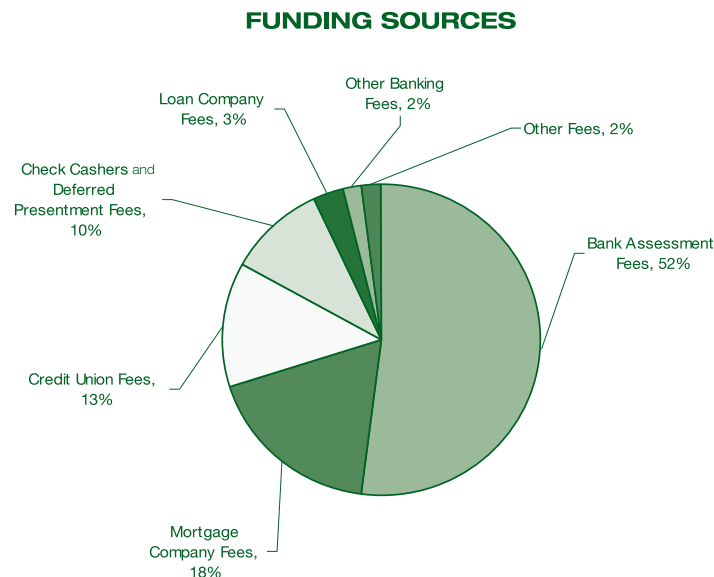
The Department of Financial Institutions receives no federal or state taxpayer funds and is fully funded by the fees assessed to the financial institutions regulated and supervised by the Department.

At the end of fiscal year 2005, the Department had a surplus of \$3,470,411.90. Out of those funds, a rebate of \$1,437,475.72 was distributed to state banks in accordance with Tennessee Code Annotated (T.C.A.) Section 45-1-118(d)(2) while \$2,032,936.18 was reverted to the state's general fund from surplus funds not associated with the bank assessment fees.

EXPENDITURE AND FUNDING SOURCES

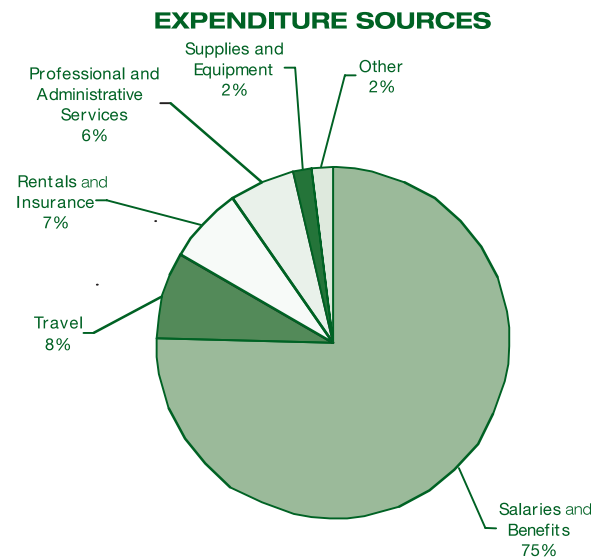
Fiscal Year 2004 - 2005

REVENUES	
Appropriations-Bank Assessment Fee	\$7,207,800.00
Other Banking Fees	\$323,721.05
BIDCOs and Trust Company Fees	\$33,315.44
Credit Union Fees	\$1,773,281.45
Money Order Fees	\$147,398.00
Loan Company Fees	\$447,225.00
Insurance Premium Finance Company Fees	\$31,175.00
Mortgage Company Fees	\$2,525,525.00
Check Cashers Fees	\$392,250.00
Deferred Presentment Fees	\$973,100.00
Miscellaneous	\$2,825.00
TOTAL REVENUES	\$13,857,615.94



EXPENDITURES	
Personal Services	\$5,938,673.57
Employee Benefits	\$1,897,819.19
TOTAL PAYROLL	\$7,836,492.76

Travel	\$849,230.12
Printing Duplicating and Film Processing	\$84,114.49
Communication and Shipping Costs	\$47,938.22
Maintenance, Repair and Services	\$2,230.84
Professional and Administrative Services	\$135,291.73
Supplies and Equipment	\$156,126.71
Rentals and Insurance	\$719,903.71
Awards and Indemnities	\$3,141.21
Grants and Subsidies	\$60,491.09
Unclassified	\$3,200.00
Professional Services-Other State Agencies	\$489,043.16
TOTAL OPERATIONAL	\$2,550,711.28
TOTAL EXPENDITURES	\$10,387,204.04
EXCESS OF REVENUE OVER EXPENDITURES	\$3,470,411.90



EXCESS OF REVENUE OVER EXPENDITURES	\$3,470,411.90
Rebated to Banks	\$1,437,475.72
Reverted to the State's General Fund	\$2,032,936.18

2005 TECHNOLOGICAL ADVANCEMENTS

Technology is rapidly changing the face of business, government and the lives of the citizens of Tennessee. The Department is constantly working to deploy the appropriate technologies to meet this challenge.

NEW IMAGING SYSTEM

In fiscal year 2005, the Department completed implementation of its document imaging system. This allows all incoming correspondence received from banks and credit unions to be electronically stored as digital images. This technology assists examiners with accessing documents in a centralized location, reduces research time, and thus enables them to perform their jobs more efficiently.

WIRELESS COMMUNICATION

No more slow dial-up for the Department's field examiners! Laptop computers for the examiners are now being installed with 3G wireless technology and virtual private network (VPN) connections so examiners can communicate digitally anywhere in the state where cell phone service is available. 3G wireless networks are capable of transferring data at speeds of up to 384Kbps and coupled with VPN security software, examiners now have both the portability and security to work anywhere.

REGULATORY BOARD SYSTEM

In fiscal year 2005, the Department is in the final stages of replacing its regulatory licensing system and its bank examination system. By using the latest technology, the Department can manage securely all of its regulatory and examination data from this one system. It also facilitates the expansion of online services to citizens and financial institutions, allowing them to conduct business electronically with the Department 24 hours a day.

